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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,842	01/16/2004	Thomas Nikolaus	04-134	6965
34704 7590 08/10/2007 BACHMAN & LAPOINTE, P.C. 900 CHAPEL STREET SUITE 1201 NEW HAVEN, CT 06510			EXAMINER LOPEZ, FRANK D	
			ART UNIT 3745	PAPER NUMBER
			MAIL DATE 08/10/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/758,842

Applicant(s)

NIKOLAUS, THOMAS

Examiner

F. Daniel Lopez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 7/26/07.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 66-82 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 66-82 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

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Response to Amendment

In The interview of July 26, 2007, the examiner indicated that a new office action would be sent out to reject the limitation “**selectively** drivingly connecting the rotor element to one or more of the plurality of hydraulic pumps” (claims 66 and 82 line 10-12) As not being supported by the specification. The finality of the last office action has been withdrawn.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 66-82 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for “a transmission element positioned between the rotor element and the plurality of hydraulic pumps for drivingly connecting the rotor element to one or more of the plurality of hydraulic pumps”, does not reasonably provide enablement for “**selectively** drivingly connecting the rotor element to one or more of the plurality of hydraulic pumps” (claim 66 and 82 line 10-12). The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make the invention commensurate in scope with these claims.

The last paragraph of Page 12 of the substitute specification states that “Toothed belts,...gears...or the like may be used as the transmission element 22 in order to connect...the individual pumps 7 to the...rotor shaft 6...directly or with a step-up ratio which can be selected”. This is understood to mean that the gear ratio can be chosen (i.e. 1:1 (direct) or a different ratio); but that there is no indication that the drive can be selectively disengaged (i.e. selectively drivingly connected).

Claims 68, 71/82, 73, 74, and 79-82 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 82 line 16-18 "a plurality of loads each having a connecting means for connecting the plurality of generators and/or loads" is confusing, since the generators have not been claimed as loads.

Claim 71/82 is confusing since it claims that the loads are generators and it appears that claim 82 also claims that the loads are generators.

Claim 79 does not further limit claim 78, since it is clear from claim 66 that the rotor drives the pump and the pump drives a load, and it is clear from claim 70, that the load is a generator, meeting all the limitations of claim 79.

In claim 80 line 1-2 "a plurality of wind machines each having" should be --the plurality of wind machines each have-- , since the plurality was claimed in claim 69. In claim 80 line 3-4 "are connectable and drive a common generator" should be deleted, since it repeats the combination of limitations of claims 69 and 70.

In claim 81 line 3-4 "a converter is connected to the generator by the common supply and return line" is wrong since the converter (14) is connected between the generator (16) and the common supply and return line (8, 9). The generator has no antecedent basis.

Claims not specifically mentioned are indefinite, since they depend from one of the above claims.

Double Patenting

Applicant is advised that should claim 67 (or 70, if the indefiniteness of 82 is taken care of) be found allowable, claim 82 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 103

Claims 66, 69, 70, 72 and 75-80, inasmuch as they are definite, are rejected under 35 U.S.C. § 103 as being unpatentable over Parkins in view of Bea. Parkins discloses a wind power system comprising two or more wind machines (e.g. column 3 line 19-23), each driving, through a transmission element (e.g. 20), a plurality of pumps (22), which are controlled, by selectively controllable check valves (30), as a function of power output levels (based on rotor speed, see e.g. fig 9); which drives a single generator (50); with a pressure equalization container (46) is between the pump and the generator; wherein rotor elements (11) are attached to a pylon attachment (14), which is rotatably attached (e.g. column 4 line 5-10) to a pylon (12); wherein the pumps are attached to the pylon; but does not disclose that the pumps are in the pylon attachment; or that the output line is passed through a coupling so its rotationally decoupled.

Bea teaches, for a wind power system comprising a wind machine, driving a plurality of pump (e.g. 30, 31), which drives a generator (e.g. 8a); wherein rotor elements (38) are attached to a pylon attachment (11), which is rotatably attached (e.g. column 4 line 5-10) to a pylon (14); that the pumps are in the pylon attachment and that the output line is passed through a coupling (73, column 5 line 52-6) so its rotationally decoupled.

Since the locations of the pumps of Parkins and Bea are functionally equivalent in the wind power art, it would have been obvious at the time the invention was made to one having ordinary skill in the art to locate the pumps of Parkins in the pylon attachment, with the output line passed through a coupling so its rotationally decoupled, as taught by Bea, as a matter of engineering expediency.

Claims 68, 71; and 67, 73, 74 and 82, inasmuch as they are definite, are rejected under 35 U.S.C. § 103 as being unpatentable over Parkins in view of Bea, as applied to claim 69, 70; and 66, respectively, and further in view of Cros. The modified Parkins discloses all the elements of claims 67, 68, 71, 73, 74 and 82; but does not disclose that the generator includes two or more generators, which are subdivided into different power levels, on a power output specific bases, via a control device, depending on

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power emitted by the wind machines; that there is a controllable restriction element or controllable valve in a line for open or closed loop control or braking;

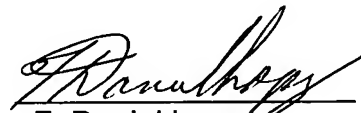
Cros teaches, for a wind power system comprising two or more wind machines (e.g. 1a, 1b, 1c)), each driving a pump (3aa, 3b, 3c), which drives a generator (e.g. 8a); that the generator includes two or more generators (8a, 8b), which are subdivided into different power levels (e.g. column 13 line 52-56), on a power output specific bases, via a control device (268, fig 9), depending on power emitted by the wind machines; and that there is a controllable valve (12) in a line to another output device (9), for the purpose of controlling the output power.

Since the modified Parkins and Cros are both from the same field of endeavor, the purpose disclosed by Cros would have been recognized in the pertinent art of Parkins. It would have been obvious at the time the invention was made to one having ordinary skill in the art to include two or more generators in the wind power system of the modified Parkins, which are subdivided into different power levels, on a power output specific bases, via a control device, depending on power emitted by the wind machines; and to include a controllable valve in a line, to another output device, as taught by Cros, for the purpose of controlling the output power.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Lopez whose telephone number is 571-272-4821. The examiner can normally be reached on Monday-Thursday from 6:00 AM –4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ed Look, can be reached on 571-272-4820. The fax number for this group is (703) 872-9306. Any inquiry of a general nature should be directed to the Help Desk, whose telephone number is 1-800-PTO-9199.



F. Daniel Lopez
Primary Examiner
Art Unit 3745
August 3, 2007